

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**PAIGE CARTER, Special Administrator of
the ESTATE OF KEVEIN C. CARTER,
Deceased,**

Plaintiff,

v.

**SCOTT FRAKES, Former Director of the
Nebraska Department of Correctional
Services, in his individual capacity;
MICHELE WILHELM, Warden of Nebraska
State Penitentiary, in her individual
capacity;
DR. HARBANS DEOL, Former Medical
Director for Nebraska Health Services, in
his individual capacity;
SHELBY BARRAGAN-LOPEZ, in her
individual capacity;
MICHAEL MCCANN, in his individual
capacity;
CHARICE TALLEY, in her individual
capacity;
JEFFERY REED, in his individual
capacity;
DOUGLAS HEMINGER, in his individual
capacity;
MATT HECKMAN, in his individual
capacity;
FRANKLIN HOWARD, in his individual
capacity;
KIM MCGILL, in her individual capacity;
and
JOHN/JANE DOES 1-6, all employees of
Nebraska State Penitentiary, in their
individual capacities,**

Defendants.

Case No: 8:23-cv-485

MOTION TO DISMISS

COMES NOW, the Defendants, Scott Frakes, Former Director of the Nebraska Department of Correctional Services, in his individual capacity and Michele Wilhelm, Warden of the Nebraska State Penitentiary, in her individual capacity, pursuant to Fed. R. Civ. P. 12(b)(6), hereby move for dismissal of the

Complaint on the basis that Plaintiffs fail to state a claim for which any relief may be granted.

WHEREFORE, Defendants respectfully request the Court grant the Motion to Dismiss and dismiss Plaintiffs' claims with prejudice.

DATED this 22nd day of February, 2024.

**MICHELE WILHELM and SCOTT
FRAKES, each in his or her individual
capacity, Defendants.**

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BY: /s/ Joseph Messineo
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CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2024, I electronically filed the foregoing document with the Clerk of the United States District Court for the District of Nebraska, causing notice of such filing to be served upon all parties registered on the CM/ECF system as follows:

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